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STATEMENT OF
JAY FELDMAN, EXECUTIVE DIRECTOR
BEYOND PESTICIDES / NATIONAL COALITION
AGAINST THE MISUSE OF PESTICIDES
ON
THE SCHOOL ENVIRONMENT PROTECTION ACT
AS CONTAINED IN S.1,
ELEMENTARY AND SECONDARY EDUCATION ACT REAUTHORIZATION
BEFORE THE
SUBCOMMITTEE ON DEPARTMENT OPERATIONS,
OVERSIGHT, NUTRITION AND FORESTRY
COMMITTEE ON AGRICULTURE
U.S. HOUSE OF REPRESENTATIVES

JULY 18, 2001

Mr. Chairman and members of the Subcommittee. Thank you for the opportunity to appear before the Subcommittee today. I am Jay Feldman, Executive Director of Beyond Pesticides / National Coalition Against the Misuse of Pesticides (NCAMP), a national, grassroots, membership organization that represents community-based organizations and a range of people seeking to improve protections from pesticides and promote alternative pest management strategies that reduce or eliminate a reliance on pesticides. Our membership spans the 50 states and groups around the world.

We are here today to discuss an extremely important provision in the Senate Education Bill, S.1, the *Better Education for Teachers and Students Act.* This provision, known as the *School Environment Protection Act*, grew out of a landmark agreement among groups representing parents, teachers, health professionals, environmentalists, pest management professionals and the chemical industry. It represents an agreement, arrived at after intensive negotiations, that strikes a delicate balance for those most affected on the ground by school pest management programs –students, school staff, and pest managers. We believe it is a sound solution to years of dispute and disagreement and is a tribute to the organizations involved in putting the interests of children first. Is this a perfect agreement? No. Is it a workable agreement that strikes a reasonable compromise? Yes. Does it do everything the public interest community would like? No. Does it do everything the

industry would like? No. Does SEPA provide a viable compromise that children and school staff deserve? Yes.

## I. Need for Federal Legislation on School Pest Management

Children –the health of children-- are at the center of the amendment before the Subcommittee today. The question is whether Congress can and should make the *Federal Insecticide, Fungicide and Rodenticide* (FIFRA) work to better protect children. Two central areas that have been identified as being in need of federal guidance and direction to ensure a uniform minimum level of standards across the states: (i) effective and affordable pest management; and (ii) transparency and disclosure of pesticide use information.

Children are especially vulnerable to pesticides. Children take in more pesticides relative to body weight than adults and are less able to detoxify toxic chemicals.[1] Low levels of pesticide exposure can adversely affect a child's neurological, respiratory, immune and endocrine system, as well as behavior and ability to concentrate. The adverse impacts of pesticides on children, however subtle in the immediate short term, may have long-lasting affects on their abilities and health later in their lives.

**Do existing federal laws provide enough protection in this area?** While FIFRA and the *Food Quality Protection Act* (FQPA) provide for reregistration of pesticides with attention to the impacts on children, there are a number of reasons why the disclosure of pesticide use through notification systems is warranted and prudent: (i) reregistration is an ongoing process with outstanding and missing data associated with a pesticide's review; (ii) additional studies are needed to reach final decisions on the impact on children for hundreds of pesticide products; (iii) the underlying standards of FIFRA ("unreasonable adverse effects') and FQPA ("reasonable certainty of no harm" or "negligible risk," based on risk assessment methodology with uncertainties and risk factors) do not ensure that there will be no harm (by definition it allows levels of risk or harm to be set); (iv) inert ingredients in pesticide formulations are not fully evaluated; (v) pesticide poisonings, including short- and long-term adverse effects are not tracked by EPA[2]; (vi) endocrine disrupting effects are not currently evaluated; and, (vii) synergy among pesticides and between pesticides and pharmaceuticals is not evaluated.

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[1] National Research Council, National Academy of Sciences, *Pesticides in the Diets of Infants and Children*, Washington, DC: National Academy Press, 1993; Calabrese, E.J., *Age and Susceptibility to Toxic Substances*, John Wiley & Sons, 1986; Natural Resources Defense Council, *Intolerable Risk: Pesticides in Our Children's Food*, February, 1989; Spyker, J.M. and D.L. Avery, "Neurobehavioral Effects of Prenatal Exposure to the Organophosphate Diazinon in Mice, " Journal of Toxicology and Environmental Health 3:989-1002, 1977; Paigen, B., "Children and Toxic Chemicals," *Journal of Pesticide Reform*, Summer 1986.

[2] U.S. General Accounting Office, *Pesticides: Use, Effects, and Alternatives to Pesticides in Schools*, November 1999, p.6.

Given the need, SEPA provides for the adoption of school pest management plans and notification and posting when certain pesticide applications are used. Because of the lack of federal involvement in this area, the level of protection afforded children is varied and uneven across the country, with most states not providing a basic level of attention to these issues. For example, sixteen states provide some degree of notification through a registry or universal system, while 34 states do nothing in this regard. Even within this category requirement, there is variation. The question for Congress is whether you believe that all children and school staff should have the basic level of protection that is provided through notification. We do.

## II. SEPA Requires Best Management Practices and Transparency

### A. School pest management plans are sound practice and save money.

The definition of school pest management in SEPA conforms to the basic principles of integrated pest management (IPM). These principles are embraced by the industry and are viewed as a sensible approach to pest management. Unfortunately, not all schools meet this industry standard. School pest management is defined in SEPA as a system that

> employs integrated methods, site or pest inspection, pest population monitoring and an evaluation of the need for pest management; and is developed taking into consideration pest management alternatives (including sanitation, structural repair, and mechanical, biological, cultural, and pesticide strategies) that minimize health and environmental risks.[3]

**Why is this necessary?** Despite the fact that many in pest management adhere to these industry standards, the practice is still not implemented in schools as widely as it should be according to pest managers and parents. School pest management plans, as required in SEPA, ensure sound pest management where methods are chosen because they are necessary.

**Integrated pest management saves taxpayers and schools money.** Because of the focus on best management practices, school integrated pest management programs save schools money and therefore save taxpayers money. The data on cost saving from these programs is clear and convincing. According to EPA in 1993, "[P]reliminary indications from IPM programs in school systems suggest that long term costs of IPM may be less than a conventional pest control program."[4] The last eight years have confirmed EPA's preliminary determination. Because IPM focuses on prevention of pest problems, and proper monitoring to determine the extent of the pest problem, school IPM programs can decrease the amount of money a school will spend on pest control in the long-term. Some economic investment may be required at the outset of an IPM program. Short-term costs may include IPM

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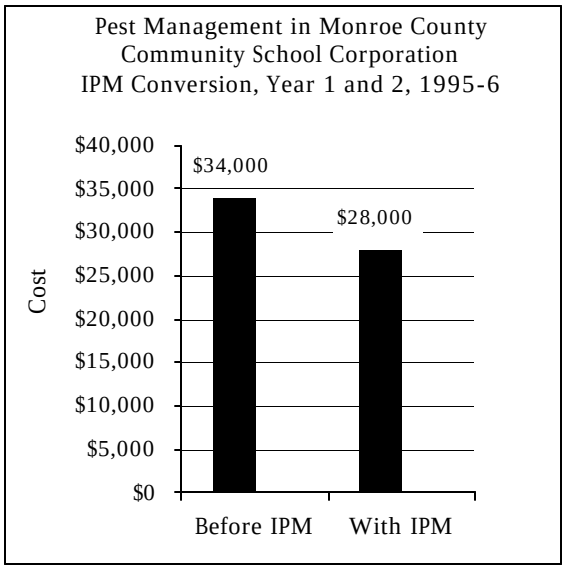
[3] SEPA, Section 33(b) School Pest Management Plans, Amendment 805, S.1. *Better Education for Students and Teachers Act, Elementary and Secondary Education Act* Reauthorization, passed U.S. Senate, June 19, 2001.

[4] U.S. EPA, *Pest Control in the School Environment: Adopting Integrated Pest Management*, 735-F-93-012, Office of Pesticide Programs, Washington, DC, 1993.

training, purchasing new equipment, hiring an IPM coordinator, or making preliminary repairs to a school's buildings. However, data show that these costs are more than offset by the savings associated with an IPM approach.

A well-known example of school IPM is the Montgomery County, Maryland public schools. The IPM program in Montgomery County covers 200 sites and reduced costs 15 to 18 percent a year on labor, equipment and material costs over a six year period, with a total savings of $111,000.[5] The county saved $30,000 at its school food service warehouse.[6] In another county in Maryland, the Anne Arundel School District reduced its pest control budget from $46,000 to $14,000 after its first year of IPM implementation.[7] Similarly, an IPM program at the University of Rochester resulted in a 50 percent reduction in material costs and a substantial reduction in personnel costs.[8] In Indiana, Monroe County Community School Corporation (MCCSC) began implementing an IPM program in 1995 that decreased the school's pest management costs by $6,000 in two years and now the program reports a 35 percent reduction in costs. This program was developed by a partnership including MCCSC, Indiana University's School of Public and Environmental Affairs, and Purdue University's Cooperative Extension-Entomology




Department. Conventional pesticide use has dropped by approximately 90 percent

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[5] Washington State Department of Ecology, *Calculating the True Costs of Pest Control*, June 1999 in Spitzer, E., *Pesticide Use at New York Schools: Reducing the Risk*, Attorney General of New York State, Environmental Protection Bureau, May 2000.

[6] Schubert, S. et al., *Voices for Pesticide Reform: The case for safe practices and sound policy*, Beyond Pesticides / National Coalition Against the Misuse of Pesticides, Washington, DC, 1996.

[7] Washington State Department of Ecology, 1999.

[8] Castronovo, Peter. "Personal Communication." University of Rochester, April 9, 1999, in Spitzer, 2000.

with the IPM program, and all aerosol and liquid pesticides have been discontinued.[9]

At Vista de las Cruces School in Santa Barbara, California, pest management was contracted out with a pest control company for $1,740 per year for routine pesticide applications. After the school switched to an IPM program, their costs were reduced to a total of $270 over two years.

The Superintendent of Schools for the Mt. Lebanon School District in Pittsburgh, PA, Glenn F. Smartschan, Ed.D. recently wrote to Senator James Jeffords, explaining the school district's experience with IPM. In his letter of June 13, 2001, Dr. Smartschan writes,

> [I understand] there are claims that the implementation of an integrated pest management program is seen by some as burdensome and expensive. At one time I would have concurred with the position. But having had the opportunity to explore this issue and implement an Integrated Pest Management Program in the district, I am convinced that the Mt. Lebanon policy implemented in June of 2000 related to integrated pest management is working very well.
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> Mt. Lebanon School District's experience with the implementation of an IPM policy has been very positive. I have found it to be manageable and no more expensive than using herbicides and pesticides. Most importantly, the community is pleased and I feel confident that I am attending to the health and safety issues of the students in the district.[10]

I am attaching a letter from a school administrator from the Mt. Lebanon school district in Pennsylvania who discusses his experience with IPM in his schools. The letter reflects on the success of an IPM program from an administrative perspective.

Albert Greene, Ph.D., National IPM Coordinator for the U.S. General Services Administration (GSA), has implemented IPM in 30 million square feet, approximately 7,000 federal buildings, in the U.S. capital area without spraying insecticides. Dr. Greene states that IPM "can be pragmatic, economical and effective on a massive scale."[11]

In a report entitled, *Pesticide Use At New York Schools: Reducing the Risk*, the Attorney General of New York State, Eliot Spitzer, says the following:

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[9] Safer Pest Control Project, *Cost of IPM in Schools: A fact sheet from the Safer Pest Control Project*, Chicago, IL, 1998 and http://www.spea.indiana.edu/pestmanagement/mccsc.html.

[10] Smartschan, Ed.D., Glenn, letter to The Honorable James Jeffords, United States Senate, June 13, 2001.

[11] Greene, A, "Integrated Pest Management for Buildings," *Pesticides and You* 13(2-3), Washington, DC, 1993.

> We often hear that implementation of integrated pest management. . .can be expensive. Because it is easy to envision costs associated with establishing new policies and practices, re-training personnel and educating building occupants, this can be a powerful argument to school administrators trying to squeeze the most out of admittedly tight budgets. While the argument might have some initial appeal, experience tells a different story. In case after case, schools and other institutions have reduced their pest control costs early in the transition, often in the first year.[12]

The New York report goes on to cite other institutions' experience with IPM that form the basis for the Attorney General's opinion. It cites the City of Santa Monica, California, having reduced its pest control costs by 30 percent, while achieving excellent control of rats, mice, cockroaches and ants in and around city-owned structures.[13] Cape May, New Jersey's IPM program achieved a 24% reduction in first year costs, and 52 percent in the second year.[14]

Finally, the New York report cites a reduction in secondary costs with IPM that are not typically calculated, suggesting that the debate often focuses on labor, equipment and material costs. However, there are additional costs associated with conventional pesticide spray programs that have been calculated by the Washington State Department of Ecology.

The Washington State Department of Ecology has done a careful analysis of the costs of pest control that considers some of the "hidden" costs, such as regulatory compliance, waste disposal, insurance, and liability for health effects, environmental damage and compliance violations. The Washington report includes worktables that will assist school administrators to estimate and compare the costs of a conventional pest management program with the costs of an integrated pest management program. The report also features some revealing worksheets to help schools appreciate the costs represented by risk and future liability.[15,16]

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[12] Spitzer, E, *Pesticides Use at New York Schools: Reducing the Risk, Environmental Protection Bureau*, Attorney General of New York State, May 2000, p.20.

[13] *The City of Santa Monica's Environmental Purchasing - A Case Study*, EPA Office of Pollution Prevention and Toxics, EPA 742-R-98-001, March 1998 in Spitzer, 2000.

[14] *Case Study: Pest Control - Cape May County, New Jersey* in *Local Government Environmental Purchasing Starter Kit - A Guide to Greening Through Powerful Purchasing Decisions*, National Association of Counties, July 1999 in Spitzer, 2000.

[15] Daar, S. et al., *IPM for Schools: A How-to Manual*," USEPA Region 9, EPA909-B-97-001, March 1997; *A Model Integrated Pest Management Plan and Policy for Schools*, New York Coalition for Alternatives to Pesticides; and Stauffer, S. et al., *IPM Workbook for New York State Schools*, Cornell Cooperative Extension Community IPM Program, Publication # 605 8/981M WP, 1998 in Spitzer, 2000.

[16] Spitzer, 2000.

**B. Notification and posting provides for transparency.**
SEPA incorporates a number of principles that are central to informing parents, school staff and students about the use of pesticides in school buildings and on school grounds. It should be noted that the provision specifically exempts antimicrobials, baits, gels, and pastes from the notification and posting requirements.

Transparency of pesticide use is accomplished in three ways: (i) a universal notification to all parents two times during the regular school year and once during the summer session; (ii) a registry of parents and school staff who put their names on a list to be notified before each application of a pesticide by broadcast spraying, baseboard spraying, tenting, or fogging; and, (iii) a posting of signs in a central area and treated areas.

The intent of the legislation is to inform or provide right-to-know. This provision evolved out of a compromise between a requirement to provide a universal notification system, informing all parents prior to every application of a pesticide by broadcast spraying, baseboard spraying, tenting, or fogging (similar to Maryland and Arizona), and a registry system that only notifies those parents who make a request. The compromise acknowledges that parents, especially in two working parent families, may overlook the first notice at the beginning of the year and therefore provides for a second notice during the school year. In addition, posting provides an important mechanism to inform people using a treated building that pesticides are being used. For those on the registry, SEPA requires that summary information on pesticides noticed through the registry shall be provided to the local educational agency by the state lead agency.

Another aspect of transparency is the risk statement prescribed in the universal notice language. Because the notice language is a compromise, it was agreed that the universal notice portion should provide a clear risk statement. It should be noted that the need for this statement grows out of a history of misleading information being disseminated on pesticides. The U.S. General Accounting Office has told Congress on several occasions that the public is misled on pesticide safety by pesticide applicator statements characterizing pesticides as “safe” or “harmless.”[17] Furthermore, it is common practice among users of pesticides to simply refer to the fact that pesticides are registered by EPA, implying that EPA’s “approval” is a seal of safety. As stated above, there are complex risk issues still to be resolved on registered pesticides and uncertainties associated with the risk assessment process that is a part of the statutory framework in FIFRA and FQPA. Transparency dictates that parents and school staff are informed to this minimal degree. This language emerged from extensive negotiation and compromise and is central to the agreement.

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[17] U.S. General Accounting Office (GAO), *Nonagricultural Pesticides: Risks and Regulation*, Washington, D.C., GAO/RCED-86-97.

**Why is right-to-know or transparency necessary?** This is a concept that the public expects as a matter of modern life and in the interest of children's health. As childhood asthma has become a larger and larger problem, for example, parents need to know whether something that may be used in the school could be triggering respiratory distress, for example. The notice provision enables parents to find out what is being used and take precautionary measures for their child. In the case of children who may not have health problems that could be exacerbated by a pesticide exposure, parents should be informed of what is going on in their child's school and the availability of additional information, should a problem arise.

**C. Other provisions in SEPA are common sense.**

**Making pesticide information available.** SEPA requires that basic information on pesticide products used in the school is available through the local educational agency. This includes information provided to it by the state lead pesticide enforcement agency, specifically: (i) copies of material safety data sheets for pesticides (or end use dilutions) applied at the school; (ii) pesticide product labels and fact sheeted approved by EPA; and, (iii) other official final information provided by the state agency.

**Pesticide use recordkeeping.** Recordkeeping is sound practice and employed in the commercial pest management sector. School records enable public institutions to better evaluate their use of pesticides and answer any questions that may arise about a school's pest management program.

**Restrictions on applying pesticides to occupied classrooms and reentering treated areas.** SEPA prohibits pesticides from being applied in areas when children are present. The amendment relies on the pesticide label to establish a re-entry time for children to return treated areas. Many pesticide product labels display a re-entry period. However, if EPA has not made a finding on a re-entry time and does not display it on the label, including a determination that no re-entry is required, SEPA sets a default re-entry period of 24 hours.

**Training and certification of pesticide applicators.** SEPA requires that each school district have a certified pesticide applicator. The language in SEPA is intended to ensure that pest management around children is conducted in a knowledgeable and cautious manner. It is simply good practice to ensure that someone involved in a school's pest management program, either on staff or under contract, is fully trained under applicable state training requirements for certification.

**Emergency exemption.** The language provides for an exemption from prior notification in the case of an emergency that poses a threat to the health and safety of a student or staff member. Notification and posting are required after the pesticide is used in accordance with the standard notice and posting provisions.

**Vocational agricultural student provision.** Recognizing that students participating in regular vocational agricultural curriculum use pesticides on a regular basis throughout the school year, special provisions for these students are provided for in SEPA. The language provides for a single notice to those on the

registry at the start of the year. The notice would provide the names of the pesticides to be used and the basic information on those pesticides, which is provided to the local educational agency by the state.

**Baits, pastes and gels exemption.** Regarding the exemption of baits, pastes and gels, it should be noted that these pesticide delivery systems, under SEPA, must be placed: (i) out of reach of or inaccessible to children; (ii) in a tamper-resistant or child-resistant container or station. Furthermore, any pesticide that meets the standards of FIFRA, Section 25(b), as stipulated in EPA's Pesticide Registration (PR) Notice 2000-6 (May 7, 2000), which establishes criteria for exempt products under FIFRA, are exempt from SEPA notification and posting requirements.

**EPA role.** EPA oversight and guidance language contained in SEPA ensures that the best thinking and experience in school pest management practices are brought to bear on the development of state plans and pesticide information. Existing state plans that meet the minimum requirements of SEPA are grandfathered under the act.

## III. How State Statutes Compare to the School Environment Protection Act[18]

| State | Posting | Notification/ Registry | IPM |
|---|---|---|---|
| Arizona | **?** | **?** | |
| California | **?** | **?** | *recommends, does not require* |
| Connecticut | *outdoor only* | **?** | *recommends, does not require* |
| Georgia | **?** | | |
| Illinois | *outdoor only* | **?** | **?** |
| Louisiana | | **?** | **?** |
| Maine | **?** | | **?** |
| Maryland | **?** | **?** | **?** |
| Massachusetts | **?** | **?** | **?** |
| Michigan | **?** | **?** | **?** |
| Minnesota | | **?** | |
| New Jersey | **?** | **?** | |

In looking at the three major programmatic components of the *School Environment Protection Act* (SEPA) -- **posting, notification and IPM** -- three states, including Maryland, Massachusetts and Michigan, have statutory requirements in all three areas. Nine states (Arizona, California, Illinois, Louisiana, Maine, New Jersey, New York, Texas and Washington) require two of the three major components in SEPA. Six states (Connecticut, Georgia, Minnesota, New Mexico, Pennsylvania and West Virginia) require one component of SEPA. There is variation within each category. While ten states require both indoor and outdoor posting, two states require outdoor posting only and one state requires indoor posting only. Fifteen states require notification registries. One additional state requires notification for EPA toxicity category three and four pesticides only. Eight states require IPM, and three additional states recommend IPM.

There are differences across the states within each of the major components that SEPA addresses. While SEPA sets a 24-hour prior notification and posting requirement, the Texas Structural Pest Control Board Regulations, section 595.8(b), state that posting is required for schools, educational institutions, and day care centers. . .48 hours prior to the application. Texas actually color codes pesticides used in schools according to EPA toxicity ratings and adopts an IPM requirement and definition that gives preference to non-chemical management strategies whenever practical and use of least-toxic chemical controls when pesticides are needed. (Texas Structural Pest Control Board Regulations, section 595.11)

Our research finds that 31 states have taken some level of action in protecting children from pesticide use in, around or near their schools.[19] As indicated above, only three states actually have provisions that form the basis of SEPA. It should also be noted that no one state has all the elements included in this legislation. In fact, SEPA, as passed by the Senate, takes elements from the experience in these 31 states that have some program and creates a minimum standard of protection across the country. In this way, the passage of this legislation will provide all children across the country with a basic level of protection.

## IV. States Rights Must Be Protected

SEPA adheres to the FIFRA principle under Section 24, which affirms the rights of states and localities to adopt standards that may exceed the federal law. In fact, as noted above, many states have adopted some standards that are more stringent than those contained in SEPA. For example, Massachusetts phases out high toxicity and cancer causing pesticides; Maryland and Arizona require universal notice to all parents before a pesticide application; California distributes a list of pesticides to be used throughout the year to parents at the beginning of the school year; Washington requires the state to report on pesticide use in the schools; Alabama, Louisiana, New Hampshire, New Jersey and North Carolina have established buffer zones or other

[19] Owens and Feldman, 2000.

limitations that prohibit aerial or ground spraying of pesticides near schools. Certainly, the rights of localities and states to respond to local concerns that go beyond SEPA is something that should not be disturbed by this legislation. This concept is central to the agreement.

**V. SEPA Is Not Too Burdensome and Costly**

Some have asked whether our country can afford to carry out this legislation. I would ask whether we can afford not to. While the cost of this program could be overstated with the assumption that we were starting from ground zero, the reality is a lot of activity has begun at the federal, state and local level that can be applied to the SEPA program. Many states already have plans that could be utilized. Other states have notification and posting programs in place that can serve as models. Clearly, at the federal and state governmental level much of the work as been done and the additional effort needed to develop guidance and plans and gather materials is limited. At the local school district level, SEPA will save money according to all the experience that has been documented, some of which is noted above. These savings would more than offset any clerical work associated with the maintenance of information on pesticides and the operation of the registry. Issues of cost and burden, in our view, do not form the basis for opposing SEPA as contained in S.1.

**VI. Moving Ahead on Behalf of Children**

Since the passage of S.1, we have been told that not all affected groups were involved in the negotiations and therefore do not endorse the outcome. The truth is that we could not negotiate with groups that in fact did not want to negotiate because they were and are against any action or believe that the current state of affairs is adequately protective of children. While we respectively disagree with the position that no action is necessary, or that only action more limited than the S.1 provision is feasible, we believed our mission was to work with all parties who accept that some compromise action is necessary at the federal level.

There is agreement among those organizations that support SEPA to exempt public health mosquito spray programs from the amendment. In fact, the legislation was conceived as a vehicle for focusing on the school districts' pest management practices and use of pesticides. In that spirit, it has been brought to our attention that the language could be interpreted to impede community spray programs for mosquitoes. We concur with the exemption and would support it being included in SEPA. We will take up the question of mosquito IPM and public notice of aerial and ground mosquito spraying in a different context.

We believe that the Education Bill before Congress is not only about access to education, but access to an educational environment that is conducive to learning. Good pest management ensures that.

While there may be some who will continue to oppose moving ahead with SEPA, we believe its adoption will provide children and teachers across this country with a guarantee that pest management in schools will be responsible and cost effective.

Thank you for the opportunity to testify today. We appreciate your interest in the health of children and school pest management and urge your support of the *School Environment Protection Act.* Please join with the long list of those organizations and businesses across the country that is supporting this important piece of legislation.[20]

[20] See attached list of supporters of the *School Environment Protection Act.*